

Atty Docket No.: 98-004 CIP1RCE1
Customer Number: 32127

REMARKS

Applicant submits this Response to the Office Action mailed March 8, 2005. Applicant has not made any amendments to the present application. Claims 1-6, 8-11, 13-22, 24-33, 37-41 and 43-46 remain pending.

Applicant notes that the Examiner has indicated on page 1 of the Office Action that claims 1-46 are pending in the application and claims 7, 12, 23, 34-26 and 42 have been withdrawn from consideration. In order to confirm and clarify the claim status for purposes of future allowance of the present application, Applicant notes that claims 7, 12, 23, 34-36 and 42 have actually been previously cancelled by Applicant, as noted in prior responses (see, for example, Applicant's Amendment dated January 23, 2003), and therefore are no longer pending in the present application.

In the Office Action, the Examiner has rejected claims 1-6, 8-11, 13-22, 24-33, 37-41 and 43-46 under the doctrine of obviousness-type double patenting as unpatentable over currently pending claims 1, 2, 4-19, 21-25 and 27-41 of U.S. Patent Application No. 09/418,436 ("the prior Howe application"). Applicant has submitted with this Response a Terminal Disclaimer disclaiming the terminal portion of any patent issued on the present application beyond the term of any patent issued on the prior Howe application, which Applicant believes obviates the double-patenting rejections of claims 1-6, 8-11, 13-22, 24-33, 37-41 and 43-46. Applicant therefore respectfully requests that the Examiner withdraw the rejections of these claims.

By submitting the aforementioned Terminal Disclaimer, Applicant does not concede claims 1-6, 8-11, 13-22, 24-33, 37-41 and 43-46 to be unpatentable over any claimed subject matter that may ultimately issue from the prior Howe application. Applicant believes that the minimal restriction imposed on Applicant by the aforementioned Terminal Disclaimer is outweighed by the benefit of prompt issuance of a patent including the presented claims, and thus submits the Terminal Disclaimer on that basis only.¹

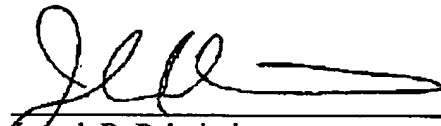
¹ As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to any other statements by the Examiner in the Office Action or any other requirements

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In view of the foregoing, Applicant respectfully submits that the pending claims are in condition for allowance. Reconsideration and allowance are respectfully requested. If there are any outstanding issues which need to be resolved to place the application in condition for allowance, the Examiner is invited to contact Applicant's undersigned representative by phone at the number indicated below to discuss such issues. To the extent necessary, a petition for extension of time under 37 C.F.R. § 1.136 is hereby made, the fee for which should be charged to deposit account number 07-2347. With respect to this application, please charge any other necessary fees and credit any overpayment to that account.

Respectfully submitted,

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applicable to the rejections (e.g., whether a reference constitutes prior art, motivation to combine references) is not a concession by Applicant that such statements are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such in the future.